

Order

Michigan Supreme Court
Lansing, Michigan

April 18, 2012

Robert P. Young, Jr.,
Chief Justice

143630

Michael F. Cavanagh
Marilyn Kelly
Stephen J. Markman
Diane M. Hathaway
Mary Beth Kelly
Brian K. Zahra,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 143630
COA: 296631
Oakland CC: 2009-225570-FC

JOHNNY ALLEN HARRIS,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the August 2, 2011 judgment of the Court of Appeals is considered and, pursuant to MCR 7.302(H)(1), in lieu of granting leave to appeal, we REVERSE in part the judgment of the Court of Appeals. An expert witness may not testify that sexual abuse occurred. *People v Beckley*, 434 Mich 691 (1990); *People v Peterson*, 450 Mich 349 (1995). The trial court impermissibly allowed Dr. Carrie Ricci to testify that the complainant was the victim of child sexual abuse and trial counsel was ineffective for failing to object to this evidence. *People v Toma*, 462 Mich 281 (2000). We REMAND this case to the Court of Appeals. On remand, the Court of Appeals shall determine whether the defendant was prejudiced by the admission of the doctor's diagnosis and whether the defendant is entitled to a new trial. *Id.* at 303-304.

We do not retain jurisdiction.



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I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

April 18, 2012

Corbin R. Davis

Clerk